

# CONSUMER FACT SHEET

## CABLE TELEVISION TRANSFER PROCESS

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Outlined below are the most commonly asked questions regarding the transfer of cable television licenses in Massachusetts.

### **How does a municipality receive formal notice that the current cable operator proposes to sell or otherwise transfer its cable system to another cable operator?**

The current cable operator (transferor) and the new cable operator (transferee) must together complete Federal Communications Commission ("FCC") Form 394, Application for Franchise Authority Consent to Assignment or Transfer of Control of Cable Television Franchise ("Transfer Application"). The Transfer Application must then be submitted, along with a \$100 application fee, to the municipality. After receipt of the Transfer Application, state regulations require that the Transfer Application must be made available for review or reproduction at a reasonable fee during normal business hours at the city or town clerk's office. The FCC Form 394 can be downloaded from the FCC's website at <http://www.fcc.gov/formpage.html>.

### **Once a community receives the Transfer Application, who should act on it?**

Under state law, the Issuing Authority makes the decisions on cable licensing matters and is responsible for determining whether the Transfer Application should be approved or denied. The Issuing Authority is the Mayor, city manager, or Board of Selectmen of the city or town, depending on the form of government adopted locally.

### **Once a community receives a Transfer Application, is there a specific period of time in which the Issuing Authority must either approve or deny the transfer?**

Under federal and state law, an Issuing Authority must act on the Transfer Application within 120 days of the date the Transfer Application is submitted to the municipality. If the Issuing Authority takes no action within 120 days, the transfer is deemed to have been approved.

### **Are there any other deadlines that the community must meet?**

Yes. State regulations require the Issuing Authority to hold a public hearing on the Transfer Application within 60 days of its receipt. The purpose of the hearing is to review the new cable operator's qualifications to operate the existing cable system. In addition, the Issuing Authority must notify the cable operators within 30 days if the Issuing Authority questions the accuracy of the FCC Form 394 and accompanying information. If the Issuing Authority does not alert the cable operators within 30 days, the information as submitted shall be deemed as accepted.

### **How will I find out about the public hearing and who will be in attendance?**

Adequate notice must be provided to insure that residents, the current and new cable operators, and all other interested parties are afforded an opportunity to participate. State regulations

require the Issuing Authority to provide notice in a newspaper of general circulation at least 14 days prior to the public hearing. In addition, in communities that have cable facilities within the control of the current cable operator, i.e., local origination, the cable operator must advertise notice on the local cable channel beginning 14 days prior to the public hearing. State regulations also require the Issuing Authority to arrange for a stenographic, video, or other tape recording of the hearing.

**Who pays for the costs associated with the recording of the public hearing?**

The cable operators bear the cost of the recording.

**What is the legal standard that the Issuing Authority must apply when evaluating a Transfer Application?**

Under state regulations, an Issuing Authority may only consider the new cable operator's management experience, technical expertise, financial capability, and legal ability to operate a cable system under the existing license. The Issuing Authority may not require that the incoming cable operator provide additional services, rebuilds, or upgrades as a condition of granting approval for the transfer.

**If the transfer is approved, does the Issuing Authority negotiate a new license with the incoming cable operator?**

No. The incoming cable operator steps into the shoes of the previous cable operator and assumes all of the terms and conditions of the license in effect at the time of the transfer.

**The current cable license for our community expires in three years. Therefore, my community is in the three-year license renewal process. How will the transfer process affect the renewal process?**

Federal and state law provide that transfer and renewal are separate and distinct processes. The Issuing Authority should work with the current cable operator on all renewal matters until the transfer is finalized. If a transfer is approved, when it becomes finalized, the incoming cable operator steps into the shoes of the previous cable operator and assumes all of the terms and conditions of the license in effect at the time of the transfer.

**If the transfer is approved, can the new cable operator make any changes to existing products, programming, rates, customer service standards, or personnel without prior approval from the Issuing Authority?**

The new cable operator may change its programming and product offerings or realign its customer service, administrative, or billing operations provided that such changes conform with federal and state laws and the provisions of the existing cable license.

**Once an Issuing Authority decides to approve or deny the transfer, what notification is required?**

In addition to informing the cable operators, state regulations require the Issuing Authority to notify the Cable Division in writing of its decision within ten days of taking final action on the Transfer Application. If the Issuing Authority is denying the transfer, the Issuing Authority must also provide a detailed statement of the reasons for the denial.

**What happens if an Issuing Authority decides to deny the transfer?**

State law and regulations provide that the Issuing Authority's decision to deny the transfer may be appealed to the Cable Division.

Massachusetts laws and regulations applicable to the transfer process may be found at our website at [www.mass.gov/dpu/catv](http://www.mass.gov/dpu/catv).

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